

REMARKS

The Office action mailed May 3, 2004 has been carefully reviewed, along with the references cited therein. In the Office action, the Examiner rejected claims 1 and 6-10 under §102(b) as being anticipated by U.S. Patent No. 2,465,595 to Kratzer. The Examiner objected to claims 2-5 as being dependent upon a rejected base claim. She did, however, indicate that claims 2-5 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants appreciate the indication of allowable subject matter.

In this amendment, Applicants have amended claims 1, 3 and 7 and cancelled claim 2. Applicants have also added new claims 16 and 17 to further protect the invention.

Claim 1 has been amended to remove the limitation of "a vane assembly pivotally received in each slot." Amended claim 1 now recites, among other things, "a rocker member having a curved surface region pivotally mounted within the slot of the rotor." This limitation is similar to original claim 2, which was indicated to include allowable subject matter. Kratzer fails to disclose such a rocker member. Accordingly, amended claim 1 now defines over the cited art.

Claim 3 has been amended in view of the amendment to claim 1. Since claims 3-6 depend from the now allowable claim 1, it is asserted that claims 1 and 3-6 are in condition for allowance.

Claim 7 has been amended to remove the limitation that "the first pumping chamber volume and the second pumping chamber volume contribute substantially equal pumping action to the pump." Claim 7 has been amended also to include the limitation "a stop member associated with at least one of the inner surface of the vane assembly and the recessed wall of the rotor for allowing fluid to pass in and out of the first pumping chamber." Kratzer fails to disclose such a stop member. Accordingly, claim 7, and those depending from it including new claim 17, patentably define over Kratzer.

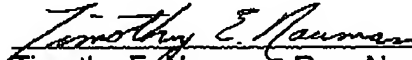
The remaining original claims were indicated as allowable. Claim 16 has been added and recites, among other things, a rocker member having a bearing surface that bears against the arcuate surface of the slot. Newly added claim 16 does not read on Kratzer in that Kratzer does not include such a rocker member. Accordingly, claim 16 defines over Kratzer.

For the reasons detailed above, it is respectfully submitted that all claims remaining in the application, namely claims 1 and 3-17, are now in condition for allowance. Early notice to that affect is earnestly solicited.

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP

August 3, 2004
Date

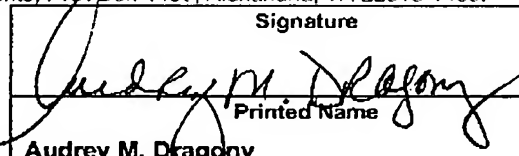

Timothy E. Nauman, Reg. No. 32,283
Jonathan A. Withrow, Reg. No. 54,548
1100 Superior Avenue
7th Floor
Cleveland, Ohio 44114-2579
(216) 861-5582

Certificate of Mailing

Under 37 C.F.R. § 1.8, I certify that this Amendment is being

- ☐ deposited with the United States Postal Service as First Class mail, addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.
- ☒ transmitted via facsimile in accordance with 37 C.F.R. § 1.8 on the date indicated below.
- ☐ deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated below and is addressed to: MAIL STOP AMENDMENT, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Express Mail Label No.:
Date
August 3, 2004

Signature

Printed Name
Audrey M. Dragony

N:\AGTZ\200052\EWL0000041V001.doc